

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
NORTHERN DIVISION

UNITED STATES OF AMERICA,)
Plaintiff,)
vs.) CRIMINAL CASE NO. GLR-20-0210
)
CHE DURBIN and TERRELL) VOLUME 1B
WALTON,)
)
Defendants.)

Monday, February 28, 2022
Courtroom 7A
Baltimore, Maryland
JURY TRIAL

BEFORE: THE HONORABLE GEORGE LEVI RUSSELL, III, Judge

For the Plaintiff:

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Special Assistant United States Attorneys
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For the Defendants:

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For Terrell Darnell Walton:
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Also Present:

Brian Battee, Harford County Sheriff's Office
Damon Gasque, IT, U.S. Attorney's Office

Reported by:

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I N D E X

| OPENING STATEMENTS: | PAGE |
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1 (Jury voir dire took place in Volume 1A.)

2 (Recess was taken.)

3 (Proceedings commenced at 2:03 p.m.)

4 **THE COURT:** Okay, very well. Now ladies and
5 gentlemen, as indicated, the jury room -- well, you may not
6 know, the jury room is located directly behind your jury
7 station. It's going to be a door directly to your left after
8 you come out of the jury box. Whenever the court recesses or
9 when you arrive in the morning or after lunch, you should
10 report directly to that jury room.

11 The Government in a few moments will end up making an
12 opening statement and defense counsel may at their option make
13 an opening statement. Understand, opening statements are not
14 evidence at all. It's just a road map on what each side
15 believes that the evidence will show.

16 At times during the course of the trial, there are going
17 to be objections that are going to be made and I'm going to
18 rule on those objections. You shouldn't concern yourselves
19 with the objections made by the lawyers or my rulings on those
20 objections unless I instruct you otherwise.

21 Now I mentioned earlier that the trial is expected to
22 last approximately two weeks. It will run today, Wednesday and
23 Thursday. We will not be sitting on Tuesday. It will also run
24 Monday, Tuesday, Wednesday and Thursday of the following week.
25 In the event that we need it, it will be the following

1 Tuesday. I believe it's March 15th that we'll sit again.

2 As I indicated, this is only an estimate and it may be
3 shorter or longer. I will try at the beginning or at the end
4 of every trial day, maybe with the exception of today, to
5 provide you with an estimate on whether or not we are running
6 behind or ahead of schedule or whether or not we're running on
7 time. I will do that after consult with the attorneys and
8 they'll come up to the bench at the conclusion of the trial
9 day or near the conclusion of the trial day. If we are running
10 a little bit behind I may cut out on our mid-afternoon break
11 for maybe ten minutes or I might cut back on lunch for maybe
12 15 minutes. If we're running on time or ahead of schedule, we
13 may end up adjourning a little bit earlier in the event that
14 there happens to be a fairly lengthy witness at 4:00 or we
15 might add a witness at 4:30 if the witness is particularly
16 short.

17 You can expect to take a mid-morning break and a
18 mid-afternoon break to allow you the opportunity to stretch
19 your legs and to use the restroom.

20 Now understand that during the trial and during recesses,
21 please don't discuss any opinion about the case. Don't discuss
22 this case either among yourselves or with any other person. Do
23 not allow yourself to overhear anyone discussing the case and
24 do not have any contact outside the courtroom with any of the
25 parties, witnesses, or lawyers except to exchange a greeting.

1 The counsel know and understand this. So don't take offense if
2 they don't acknowledge you. Because it's so important for you
3 to end up judging this case exclusively on the evidence that
4 you end up hearing at trial. So again, don't be offended if
5 Counsel doesn't happen to speak to you because they understand
6 what your obligation is.

7 You should not do any research or investigate this case
8 on your own. You must base your decision solely on the
9 evidence presented in the courtroom. Keep an open mind
10 throughout the entire trial. And at the end of all the
11 evidence, I'm going to explain to you the law that applies in
12 this case and you will have the case eventually for
13 deliberations.

14 Now each of you has been or will be provided a notebook
15 to jot down any notes that you'd like to take during the
16 course of the trial. This notepad will be marked with your
17 juror number on the reverse side of it and my courtroom deputy
18 is raising that for you now.

19 At the conclusion of the trial or during recesses, you
20 can take your notepads with you in the jury room or place them
21 on your seat there. No one is going to be permitted to review
22 your notes. They're collected at the end of the day and
23 they're put in a secure location within my chambers. So no one
24 will read your notes. And, indeed, at the conclusion of the
25 case, you can take your notes with you. You can rip them out

1 or we will destroy them for you. I'm not reading any of those.

2 You should keep in mind that any notes that you're taking
3 are only to help you remember and the notes themselves are not
4 evidence. Please don't let your note-taking interfere with
5 watching and listening to the witnesses.

6 As I indicated, you shouldn't discuss this case among
7 yourselves or allow anyone to discuss this case with you. In
8 the event that anything questionable occurs and I'm not
9 suggesting that it will occur, but in the event that anything
10 questionable does occur, don't discuss it with your fellow
11 jurors. Just simply write a note and get it to the courtroom
12 deputy and she will hand it to me. I will read the note. I'll
13 bring the parties in and we will collectively address whatever
14 concern that you end up having. But you should not discuss it
15 with your fellow jurors.

16 So with that, Counsel, do you need to approach at all?
17 We're going to distribute our notebooks in a moment and
18 Counsel, do you need to approach at all before we get into the
19 opening statements?

20 **MR. ROMANO:** I don't believe so, Your Honor.

21 **MS. FLYNN:** No, Your Honor.

22 **THE COURT:** Mr. Mann?

23 **MR. MANN:** Judge, I'm good.

24 **THE COURT:** Very well. So what we'll do is as soon
25 as the courtroom deputy is finished marking the notebooks, I'm

1 going to call upon the Government to give their opening. As I
2 indicated, each defendant is entitled, but not required to
3 give an opening in this case and you will hear from them. And
4 then we will defer to the order given where we are in the hour
5 as to the presentation of the balance of any evidence that
6 will be heard today.

7 Also, by the way, absent a change of protocol or our
8 local rules, you should continue to adhere to the masking
9 requirements. So when you're in the confines of the jury
10 assembly room, out of respect for your fellow jurors, unless
11 you are eating or drinking something, I would ask that you
12 remain masked while you're in the jury room. That does not
13 necessarily apply when you are outside of the courthouse
14 complex and if you decided to take a walk or eat some lunch. I
15 don't anticipate the Court's internal masking policies to
16 change while this trial is going on, but if it does, I will go
17 ahead and adjust.

18 Also, understand the lawyers are under the same
19 admonishment. If they are engaged in a speaking role, then
20 they may remove their mask. If they're not engaged in a
21 speaking role they are to remain masked at all times. The same
22 would apply to you as jurors and it also applies to me. I just
23 happen to be doing a lot of talking right now, so that's why I
24 don't have a mask on.

25 Ms. Herndon, is there anything else you think we need to

1 address before openings?

2 **THE CLERK:** No, Your Honor. We're ready.

3 **THE COURT:** All right. Mr. Romano, who is going to
4 give the opening, sir?

5 **MR. ROMANO:** I am, Your Honor. For the record, I
6 have been vaccinated and boosted so with the Court's
7 permission may I address the jury without my mask?

8 **THE COURT:** At your pleasure, sir.

9 **MR. ROMANO:** Thank you. On May 17, 2019, Che Durbin
10 was patiently waiting, patiently waiting the arrival of a U.S.
11 mailman who had a package to deliver to Apartment 1B at the
12 Warwick Apartments located in Aberdeen, Harford County
13 Maryland. And as Che Durbin watched and waited, there were
14 others who were watching and waiting, watching Che Durbin as
15 he waited for the mailman to deliver the package. What was in
16 the package was a doll, something called a Minecraft doll. I
17 had never heard of it before, but apparently it's a doll that
18 is associated with some type of internet game. But what was
19 inside the Minecraft doll was almost 1 kilogram of cocaine. A
20 kilogram, ladies and gentlemen, worth more than \$30,000.

21 Good afternoon. Let me reintroduce myself. I'm Chris
22 Romano. And together with Jason Hamilton, we represent the
23 United States.

24 What I've just told you is part of what brings us all
25 here to court today: You as jurors; Mr. Hamilton and I as the

1 prosecutors; the defendants, Mr. Durbin, Mr. Walton; their
2 counsel; and His Honor, Judge Russell.

3 I say it's part of what brings us here to court today
4 because as you will learn, there's much, much more to this
5 case. In fact, what happened on May 17, 2019, was really just
6 the beginning of the end. And not just for Che Durbin, but for
7 many others, including Che Durbin's co-defendant, Terrell
8 Walton, who was a co-conspirator, in essence his partner in
9 crime.

10 And that crime, ladies and gentlemen, is the crime of
11 conspiracy. In this case, Conspiracy to Distribute and Possess
12 with the Intent to Distribute cocaine and cocaine base, which
13 is commonly known as crack cocaine.

14 Che Durbin and Terrell Walton are charged in Count One
15 with Conspiracy to Distribute and Possess with the Intent to
16 Distribute both cocaine and crack cocaine. Che Durbin is also
17 charged in Count Two with Possession with Intent to Distribute
18 cocaine in connection with that package on May 17th of 2019.
19 And as you will learn and as the evidence will show, he's also
20 charged in Count Three with Possession with Intent to
21 Distribute more than 1 kilogram of cocaine in May of 2020,
22 almost, in fact, a year to the day from that first package
23 that he possessed in May of 2019.

24 Now there are two elements that the Government must prove
25 in order for the defendants to be found guilty of conspiracy.

1 First, that two or more persons committed an unlawful act and
2 the evidence in this case will show that unlawful act was to
3 distribute or possess with the intent to distribute cocaine
4 and crack cocaine.

5 The second element is that each of these defendants, Mr.
6 Durbin and Mr. Walton, became members of that conspiracy and
7 they did so knowingly and willfully. It didn't happen by
8 accident that they were members of the conspiracy. They
9 knowingly and willfully became part of this conspiracy.

10 And the crime of conspiracy, ladies and gentlemen, to
11 violate a federal law, is a separate and independent offense
12 from what the law refers to as a substantive offense. The
13 substantive offense in which Mr. Durbin is charged in Counts
14 Two and Three is the Possession with Intent to Distribute. But
15 conspiracy is a separate crime under federal law.

16 Now as for the elements for Counts Two and Three, the
17 Possession with Intent to Distribute, the Government's
18 evidence will show these three elements: One, that Mr. Durbin
19 possessed that cocaine; second, that he knew it was cocaine;
20 and third, that he intended to distribute it. And by
21 "distribute" means to hand over or in this case, sell.

22 With regard to Count Two, the Government's evidence will
23 show that he either actually or constructively possessed that
24 kilo of cocaine. And with regard to Count Three, the
25 Government's evidence is going to show that a co-conspirator,

1 the co-conspirator by the name of Jamika Thompson -- and
2 you're going to hear from her -- physically possessed that
3 cocaine, that kilo in May of 2020. But that Che Durbin aided
4 and abetted her possession of that cocaine. And that will make
5 him just as guilty as if he physically possessed it.

6 In his instructions to you at the close of the case,
7 Judge Russell will define all these terms for you, possession,
8 distribution, as well as aiding and abetting. But make no
9 mistake about it, ladies and gentlemen, make no mistake about
10 it, Che Durbin possessed those drugs and he intended to
11 distribute them within the community of Harford County. And he
12 did so for one reason and one reason only. That was to make
13 money. Making money was both Che Durbin and Terrell Walton's
14 motivation. And the Government's evidence will establish that
15 beyond a reasonable doubt.

16 Now as I told you, the first element that the Government
17 must prove when it comes to conspiracy is that there are two
18 or more persons that are entered into this unlawful agreement
19 to distribute or possess with the intent to distribute powder
20 and crack cocaine. Well, not only will the Government's
21 evidence, ladies and gentlemen, show that these two
22 defendants, Che Durbin and Terrell Walton were part of the
23 conspiracy, but you're going to also hear evidence about other
24 members of the conspiracy.

25 There was a source of supply of this cocaine. And that

1 person was a man by the name of Jack Anderson. Jack Anderson
2 lived in Tucson, Arizona. Jack Anderson using a fake name and
3 a false address, but close to his real address in Tucson,
4 mailed that package in May of 2019 that contained that
5 Minecraft doll, that contained that kilo of cocaine to an
6 address where Che Durbin was waiting for it.

7 And how do we know that it was Jack Anderson? Because it
8 was a fake name on the package. How do we know that? His
9 fingerprints, ladies and gentlemen, were on those drugs. His
10 fingerprints incidentally were also on that kilo of cocaine
11 that Jamika Thompson brought back from Tucson, Arizona in May
12 of 2020.

13 Now those two packages of cocaine were seized, but there
14 were other packages, other kilos of cocaine that made it from
15 Arizona to Maryland that did not get seized. And once Che
16 Durbin got that cocaine, he sold it. He distributed it to any
17 number of people, including his co-defendant, his
18 co-conspirator, Terrell Walton; his partner in crime, a man by
19 the name of Michael Wells. Terrell Walton and Michael Wells
20 as you're going to hear, along with Che Durbin, distributed
21 that cocaine to any number of people in Harford County.

22 So now how is the Government going to prove that? Well
23 folks, you're going to hear the very words, the very words of
24 Che Durbin, Terrell Walton, and Michael Wells. And not only
25 will you hear their words, you're going to see text messages,

1 text messages that showed that they were distributing cocaine.
2 And that happened because the Harford County Narcotics Task
3 Force which was the police agency that was investigating this
4 case, had applied for and received permission from a judge to
5 intercept cell phone calls and text messages.

6 Now let me stop here for just a minute and caution you
7 about some of that language that you're going to hear in these
8 phone calls and some of that language you're going to read in
9 these text messages. It contains very coarse, very profane
10 language. But folks, this is the real world. It's not some TV
11 show like CSI or Law and Order where the case is solved in one
12 hour with a few commercial interruptions and sanitized so that
13 the language is G or PG, so that it's edited for TV. You're
14 going to see, this is the real world and how that dirty game
15 of drug distribution really operates.

16 Now with regard to some of the language in the texts and
17 calls that you're going to hear from Che Durbin, Terrell
18 Walton, Michael Wells, as well as their customers, they use
19 what they think, what they think is coded language. They talk,
20 they text, and they use coded language just in case, just in
21 case law enforcement might be listening. And you know what?
22 They were.

23 These defendants figured if we disguise what we're
24 talking about, no one is going to know. That's what they
25 figured. But they figured wrong.

1 Throughout this trial you're going to hear words like
2 "Hey, bring me that clock." "Bring your bench." "Bring a
3 calculator." All code words, ladies and gentlemen, for a
4 digital scale so that the drugs can be weighed.

5 You're going to hear, "I want it soft." "I want it hard."
6 "Is the cake already made?" References to powder cocaine, "I
7 want it soft." "I want it hard," "Is the cake already made?"
8 Crack cocaine.

9 You're going to hear some sports analogies. You're going
10 to hear the name Michael Vick. You're going to hear
11 "basketball." You're going to hear "half time." All of those
12 are references to different weights of drugs.

13 Michael Vick, if you remember him, was a football player.
14 His jersey number was 7. 7 grams. "Basketball" or "pool"
15 refers to an 8-ball which is 3.5 grams. "Half-time," 14 grams,
16 one-half of an ounce.

17 Those involved in the drug trade like these defendants
18 and their customers use the metric system. They deal in grams.
19 That's why they need and that's why they use digital scales.
20 They call them "clocks," they call them the "bench," they call
21 them the "calculator." They all mean one thing, a scale. And
22 they need that scale to weigh the drugs.

23 A gram, ladies and gentlemen, see this packet of Sweet
24 and Low or any artificial sweetener that you might use in your
25 tea or your coffee? This is one gram, all right? This is one

1 gram. So a thousand of these is a kilogram. 28 of these
2 packages, 28 grams is an ounce. And selling drugs, like I told
3 you, the name of the game is to make money.

4 Speaking of money, you're also going to hear evidence and
5 see testimony and hear testimony about another package, a
6 package that was sent in the U.S. Mail that was mailed to Jack
7 Anderson, this time using Jack Anderson's real name and using
8 his real address. And the name on the sender of that package,
9 Che Durbin. And it was mailed from the same address, Apartment
10 1B at the Warwick Apartments in Aberdeen.

11 But this time, ladies and gentlemen, that package wasn't
12 coming from Arizona to Maryland. It was going the other way,
13 from Maryland to Arizona. This package didn't contain a kilo
14 of cocaine stuffed inside a doll. This package contained a
15 Beats headphone box, the kind of headphones that you put in,
16 brand name is Beats. So in that box was the Beats package.
17 But more importantly, what was inside that Beats box was more
18 than \$80,000 in cash. \$80,000 made up mostly of hundred dollar
19 bills. That money was used to pay for drugs that Jack Anderson
20 had sold to Che Durbin. Money that Che Durbin, Terrell
21 Walton, Mike Wells and others made from selling drugs once
22 they hit the streets of Harford County.

23 Remember I told you that Jack Anderson's fingerprints
24 were on those kilos of cocaine, the ones in May of 2019 and
25 the ones in May of 2020? Well, guess what, on that Beats box

1 that contained more than \$80,000 in cash, not only were Jack
2 Anderson's prints on that Beats box, but so were Che Durbin's
3 fingerprints. So were Jamika Thompson's fingerprints.

4 Speaking of Jamika Thompson, you're going to hear her
5 testify. You will hear her testify that she was part of the
6 conspiracy, what her role was, primarily flying out to Tucson,
7 Arizona where she would obtain a rental car, a rental car paid
8 for by the defendant, Che Durbin. And once she got that rental
9 car she would drive it back all the way from Tucson, Arizona
10 to Harford County, transporting kilos of cocaine.

11 Jamika Thompson will testify that she's testifying in the
12 hope that she ultimately will get a reduced sentence. That's
13 all it is, ladies and gentlemen, a hope. No promises have been
14 made to her and her sentence will be whatever His Honor, Judge
15 Russell, determines the sentence to be appropriate.

16 Jamika Thompson, no doubt, will be portrayed as a liar by
17 the defense. She lied about her role in the conspiracy when
18 she was interviewed by law enforcement after she was arrested.
19 You're going to hear that she violated the terms of her
20 pretrial release which landed her back in jail. And once back
21 in jail, she engaged in elicited conduct. She did these things
22 to be sure, but it will be up to you as jurors, as judges of
23 the facts as to whether you believe some of her testimony,
24 none of her testimony, or all of her testimony as she takes
25 the witness stand.

1 But you will also see evidence of her flights to Arizona.
2 You will see evidence of the car rental records. In fact, you
3 will also actually see some video surveillance that was done
4 of her both in Maryland and in Tucson, Arizona. So you all
5 will be the judges of her credibility as a witness.

6 But you know what? The Government did not make Jamika
7 Thompson a witness. Che Durbin made Jamika Thompson a witness
8 when he paid for her airfare, when he paid for her rental
9 cars, when he had her bring those drugs back from Tucson,
10 Arizona to Maryland. Che Durbin made her a witness when you'll
11 see that video of her placing that package in May of 2019 in
12 her car and you'll learn that the car was stopped and the
13 drugs were seized. That's what made Jamika Thompson a witness.

14 Now at the close of this case, ladies and gentlemen,
15 you're going to retire to your jury room. You're going to
16 deliberate and you're going to come back here and you're going
17 to render a verdict. Do you know what the term "verdict"
18 means? It comes from the Latin, verum dictus, which means to
19 speak the truth. And with your verdict, you're going to tell
20 Che Durbin and you're going to tell Terrell Walton that you
21 know the truth. The truth is they're guilty.

22 **THE COURT:** Thank you very much, Mr. Romano. Ms.
23 Flynn, will you be giving an opening statement?

24 **MS. FLYNN:** Yes, Your Honor.

25 **THE COURT:** Thank you. At your pleasure.

1 **MS. FLYNN:** And with the Court's permission I am
2 vaccinated, so I'd like to remove my mask.

3 **THE COURT:** Of course.

4 **MS. FLYNN:** Thank you. Good afternoon, ladies and
5 gentlemen. My name is Catherine Flynn. I didn't really get a
6 chance to meet you before when you were in the room and we
7 were in here and I represent Mr. Che Durbin. And Mr. Durbin
8 has been waiting since the day he was charged in this case,
9 May 12th of 2020 to be able to walk into a courtroom and say,
10 "I'm not guilty of these charges."

11 Now everything Mr. Romano just said to you, none of that
12 is evidence. The judge has instructed you, opening statements
13 are not evidence. You all are the judges of the facts of this
14 case. You all are the only ones that get to decide what has
15 been proven and what hasn't been proven.

16 Now you all may have noticed when you walked into the
17 room, the jury box is a little bit elevated off of the carpet.
18 And that's because you all just got an elevated position. You
19 are the judges of the facts. His Honor is the judge of the
20 law. But you all are the only ones who get to decide, do I
21 believe this fact? Has this fact been proven beyond a
22 reasonable doubt? Am I skeptical about whether or not this is
23 proven? Is it just because somebody says it's true? Do I
24 have to believe that? And the answer is no. Just because
25 somebody says something doesn't mean you have to believe it.

1 For instance, the Government was talking to you about
2 this coded language. And Mr. Romano was saying, this is what
3 it means. A clock means it's a scale. Well, that's his opinion
4 and he may have somebody from law enforcement coming in here
5 and saying, "Based on our expertise and our experience that's
6 what these words mean." That doesn't mean it's proven. That
7 doesn't mean it's true. It's the narrative that they're trying
8 to prove, but it doesn't mean it's true. You all are the ones
9 who decide what has been proven and what hasn't been proven.

10 And while my client is charged along with Mr. Walton, Mr.
11 Mann represents Mr. Walton. I represent Mr. Durbin. You need
12 to look at these gentlemen separately. You need to look at the
13 evidence that is presented. And when you get the verdict
14 sheet at the end of the case, you're going to be asked to
15 reach separate verdicts regarding Mr. Durbin and Mr. Walton.
16 So I just want you to keep that in the back of your mind when
17 you're listening to some of the evidence. Some of the evidence
18 the Government is going to be directing towards Mr. Durbin.
19 Some of it is going to be directed towards Mr. Walton. And
20 it's important for you as the judges of the facts to keep that
21 straight because you're going to have to ask your question at
22 the end of this case, has the Government proven each and every
23 element of every crime? And my client is charged
24 independently of some crimes, and then in the conspiracy along
25 with Mr. Walton.

1 Now as I said, my client has been waiting day after day,
2 month after month since May 12th of 2020, well over a year,
3 we're peeking into two years now to be able to come into court
4 and say, "I'm not guilty." The Government can accuse you of
5 anything. Anybody can find themselves at the wrong end of an
6 indictment, at the wrong end of a criminal charge. What
7 matters is what happens when you walk into court when you say
8 "I'm not guilty."

9 The Government has to prove this. And there's going to be
10 some smoke, there's going to be some inferences, there's going
11 to be accusations. But there's not going to be any evidence
12 against Mr. Durbin.

13 So I appreciate your time. We're going to be together
14 probably for the next couple of weeks. You've got a very, very
15 important job ahead of you and I ask that you take that as
16 seriously as we take it. And this is an extremely important
17 process for Mr. Durbin. And I trust that you will and I am
18 confident that at the end of the entire presentation, you will
19 find Mr. Durbin not guilty. Thank you.

20 **THE COURT:** Thank you very much, Ms. Flynn.

21 Mr. Mann, will you be giving an opening statement, sir?

22 **MR. MANN:** Yes, please, Judge.

23 **THE COURT:** At your pleasure, sir.

24 **MR. MANN:** I'm also vaccinated so I'm going to take
25 my mask off.

1 When I was about ten years old I went to one of these
2 fairs with my family, with my dad and my mom and my brother.
3 Not one of the fancy fairs like the Maryland State Fair or
4 maybe your local county fair, it was one of these fairs that
5 sets up in like a parking lot, set up in like a field and you
6 come in and they charge you kind of per ride.

7 And when we were there, there was this carnival worker.
8 He had a nice tent and there was one of these tents that had
9 sensational things on there. And he's screaming and yelling
10 and doing a fantastic job of telling us he had a mermaid
11 inside of this tent, a real mermaid. Now ten years old, I said
12 to my dad, "I have to see this mermaid. I have to go and see
13 this." And my dad sits there and laughs at me. He knows what's
14 going on. I said, "Dad, there's a real mermaid in there, I
15 have to go see it." And this carnival worker did a fantastic
16 job "Oh, you've got to come in. You've got to see this
17 mermaid." He had a whole backstory and I was hook, line and
18 sinker -- no pun intended -- I was in. And I begged my dad
19 for the five dollars so I could go in. I said, "Dad, are you
20 going to come with me? Are you going to come in here and see
21 this mermaid with me?" And he said, "No, I'm going to wait on
22 the other side. I'm not going to waste my money." I said,
23 "Okay."

24 My dad paid this man five dollars and 10-year-old me
25 pulled back the tent and I went inside and it was dark. And

1 there was a tank in there and I got really excited. And then
2 I saw a woman in a bikini and a horrible piece of makeup that
3 had her tail and she said something and I realized, this
4 wasn't a mermaid. And I hung my head and I walked out. And
5 my dad is out there laughing at me.

6 And I learned a lesson that day: Things aren't always
7 what they seem. Things aren't always as they are told to us.

8 Now on behalf of Terrell Walton, we are kind of in the
9 cheap seats in the back, but please, this is just as serious
10 as if we were in the front row. And we want to thank you for
11 keeping an open mind as we progress through this trial over
12 the next couple of days.

13 And I do want you to remember that there are two --
14 though we are sitting here on this side together, there are
15 two trials that are going on and you will be returning a
16 verdict separate and apart from Mr. Durbin. Mr. Walton is here
17 on his own and he also is excited to have his day in court.

18 I want you to listen intently. I want you to listen and
19 see what the Government shows us. And I want you to hear the
20 words that are said on these tapes and out of the witnesses'
21 mouths, but I also want you to see what is missing. Because
22 when this is all said and done and you go back to the jury
23 room and you look at the evidence that's been presented, the
24 question in your mind will be, "What didn't we see? What
25 wasn't presented to us? Why are we still having questions

1 about where this evidence is?"

2 Because what you will not see is my client dealing any
3 drugs. What you will not see is any money in my client's
4 hands. What you will not see is any drugs in his hands.

5 Mr. Romano took time going through each count that they
6 presented to you. Count Two and Count Three are about overt
7 acts. These two different instances in May of 2019 and May of
8 2020 which we can call overt acts that are in relation to Mr.
9 Durbin, but there are no overt acts in relation to Mr. Walton.
10 There's not one time the Government says, "You had drugs on
11 this day. This is the quantity of drugs that you had and now
12 you have a Count Four. You have an overt act." They don't have
13 any of that. The only thing that they have are these recorded
14 calls, which really when you examine them, don't say a whole
15 heck of a lot. Recorded calls the Government picks and chooses
16 to fit their narrative.

17 Ms. Flynn is right. Everything that we say now is not
18 evidence. But talking about these coded language, talking
19 about how things come and go are all done, are all picked and
20 choosed to fit the Government's narrative. They are here to
21 try to convict our clients on nothing more than guesswork. The
22 Harford County Sheriff's Department picks and chooses what
23 they want you to see. The Harford County Sheriff's Department
24 picks and chooses what code words mean. That's their
25 narrative.

1 The Government is a carnival worker. They're the ones
2 trying to get you to come on in, trying to hook you into their
3 tent putting up a lot of smoke, a lot of fancy words. But when
4 you peel back this tent and you walk inside, there's nothing
5 there. There's nothing of substance. You see the woman in a
6 bikini in a bad piece of makeup.

7 What they are missing is the connection between these
8 two. Peel back their case and actually examine what they are
9 having there. See the lack of connection between Terrell
10 Walton and Che Durbin. See the lack of any conspiracy between
11 them. There are no calls and texts between these two. There is
12 no connection between Jamika Anderson, there's no connection
13 between Michael Wells and my client. All they have are calls
14 that they want to tell you what they mean. But you are to
15 decide what they mean. It is your job to decide what these
16 calls actually show. And when all is said and done, the
17 Government will have failed to prove a conspiracy. They will
18 have failed to prove a meeting of minds, failed to prove any
19 connection between Terrell Walton and Che Durbin. Failed to
20 prove any connection between Terrell Walton and 26 grams of
21 crack cocaine. Failed to prove any connection between Terrell
22 Walton and this Harford County drug conspiracy. And when it's
23 all done, I ask you to find the truth and to find them not
24 guilty.

25 **THE COURT:** Thank you very much, Mr. Mann.

1 Mr. Romano, your first witness, sir, or first
2 presentation of evidence.

3 **MR. ROMANO:** Thank you, Your Honor. Consistent with
4 what the parties and Your Honor has previously approved, we
5 will not be calling any live testimony from witnesses today.
6 Those witnesses will start on Wednesday.

7 However, we do have some stipulations with regard to
8 certain custodians of records and other witnesses. I don't
9 know whether Your Honor --

10 **THE COURT:** I'm going to instruct them on what that
11 is.

12 **MR. ROMANO:** Thank you, Your Honor.

13 **THE COURT:** All right, ladies and gentlemen.
14 Consistent with what the Government as well as defense counsel
15 have agreed to as far as the presentation of evidence outside
16 of your presence, the parties are going -- or the Government
17 is going to present what they call stipulations to you. A
18 stipulation is a document or reading of a document which
19 manifests an agreement between the parties that certain facts
20 that would have otherwise been presented in open court are
21 true. And we will begin with the live testimonial portion of
22 this case first thing on Wednesday.

23 So we're going to go through the stipulations of the
24 parties today. They're going to be presented. There may be
25 other items or just simply the stipulations today. You're

1 going to adjourn for today because I know it's been a long day
2 and then we will have you return back into the jury room at
3 9:15 on Wednesday morning. But I'm going to talk to you about
4 instructions when you adjourn at that particular time.

5 So Mr. Romano, feel free to present your stipulations.
6 And again, ladies and gentlemen, these are agreements among
7 all parties. Just because the Government is putting forth the
8 stipulation does not necessarily mean they agree with it more
9 than one side than the other. All sides agree to it equally.

10 **MR. ROMANO:** Thank you, Your Honor. Your Honor, I'm
11 going to use the Elmo.

12 **THE COURT:** Yes.

13 **MR. ROMANO:** To just put these up.

14 **THE COURT:** Ladies and gentlemen, the Government is
15 going to use an equipment device. When he puts the document on
16 the stand there it should light up on your monitors. If for
17 some reason your monitors don't show anything or they're
18 blank, please write a note and let us know.

19 And by the way, for the purposes of court proceedings,
20 the person designated in seat number one will be the
21 designated foreperson. So to the extent that somebody ended up
22 having a note that they wanted to get to my attention that
23 occurred inside of court, you should just simply write your
24 own individual note, fold it, put your juror number on it and
25 pass it to the foreperson here. And it will be addressed by

1 the courtroom deputy.

2 All right, Mr. Romano.

3 **MR. ROMANO:** Thank you, Your Honor. Your Honor, the
4 first stipulation is a stipulation regarding custodian of
5 records. And for the record, that is Exhibit No. 42. And
6 contained within Exhibit No. 42 is the stipulation which
7 states the following:

8 It is agreed and stipulated between the parties that if
9 called to testify, the custodian of records for business
10 records for Delta Airlines, and those records are contained in
11 Government's Exhibit 5; Southwest Airlines, and those records
12 are contained in Government's Exhibit 6; American Airlines,
13 Government's Exhibit 7; La Quinta Hotel, Government's Exhibit
14 10; DoubleTree Hotel, Government's Exhibit 11; Staybridge
15 Suites Hotel, Government's Exhibit 12; National Car Rental at
16 Government's Exhibit 19; and Avis Car Rental records,
17 Government's Exhibit 20A through C. The custodians would
18 testify that those records reflected in the exhibits that I
19 just discussed were made and maintained in the ordinary course
20 of business of each of these entities.

21 And that stipulation, Your Honor, has been signed by all
22 the parties. The parties further stipulate to the
23 admissibility of this stipulation --

24 **THE COURT:** Okay, Mr. Romano, I'm sorry. The
25 monitor is not working on one of them. I didn't mean to cut

1 you off. Unable to view monitor. I got two notes in that
2 regard. Sorry about that, Mr. Romano.

3 **MR. ROMANO:** That's fine, Your Honor.

4 **THE COURT:** Is it working?

5 **THE CLERK:** Yes, it is, Your Honor.

6 **THE COURT:** Is everyone's?

7 **MR. ROMANO:** I'm not going to belabor it, Your
8 Honor. I'll just go back to the benefit of those jurors that
9 didn't have it on the first page of the stipulation that it
10 references each of the business records and those records are
11 labeled it's the Government's exhibits that you can see, 5, 6,
12 7, 10 and so on and so forth.

13 And the second page of this stipulation for the record is
14 Government's Exhibit 42 which indicates that the parties
15 stipulate to the admissibility of not only the stipulation,
16 but the business records into evidence. It's signed by counsel
17 for the Government; Mr. Durbin; his attorney, Ms. Flynn; Mr.
18 Walton; his attorney, Mr. Mann. So that's one of the
19 stipulations.

20 **THE COURT:** I'm going to interrupt you really quick,
21 Mr. Romano. For the purposes of the court record, I did
22 receive two notes related to the not working monitors. I've
23 marked those notes as Court's Exhibit 1 and 2 for the court
24 record because we need to make sure that anything I receive,
25 they know about and I place it into the court record. All

1 right.

2 **THE CLERK:** Thank you, Your Honor.

3 **THE COURT:** I'm going to put a date on there too.

4 **THE CLERK:** I'll do it.

5 **THE COURT:** Thank you. Go ahead, Mr. Romano.

6 **MR. ROMANO:** Thank you. Are we all good with the
7 monitors, ladies and gentlemen? Okay, I see a thumbs up so I
8 think we're ready to go.

9 The next for the record would be a stipulation labeled
10 Government's 43. And this pertains to the testimony of Kayte
11 Wildman and it reads as follows: It is agreed and stipulated
12 between the parties that if called to testify, forensic latent
13 print analyst Kayte Wildman would testify regarding the
14 findings contained in her report. Her report being
15 Government's Exhibit 40. The parties stipulate to the
16 admissibility of her report, Government's Exhibit 40. Again,
17 it's signed by all counsel and the defendants, as well.

18 The final stipulation, Your Honor, which for the record
19 is Government's Exhibit 44, is a stipulation regarding the
20 testimony of Detective Michael Pachkoski and it reads as
21 follows:

22 It is agreed and stipulated between the parties that if
23 called to testify, Detective Michael Pachkoski would testify
24 regarding the findings contained in his reports which are
25 Government's Exhibits 41A and B. The parties further stipulate

1 to the admissibility of his reports, which are Government's
2 Exhibits 41A and B. And again, the stipulation is signed by
3 all counsel, as well as the defendants. So those would be the
4 stipulations, Your Honor.

5 **THE COURT:** Okay, very good. Will that conclude the
6 Government's evidentiary presentation for today?

7 **MR. ROMANO:** Yes, sir, it will.

8 **THE COURT:** All right, very well. Ladies and
9 gentlemen, we weren't quite sure with regard to our pandemic
10 jury selection, how long it was going to take. Luckily, they
11 did so thanks to the attorneys and all of the court personnel
12 in a very efficient manner. But we wanted to at least get some
13 of the evidence underway during the presentation, including
14 opening statements.

15 We have concluded the evidentiary presentation for today.
16 So with that, you're going to be excused fairly quickly today,
17 but I want to continue to admonish you, please don't discuss
18 this case among yourselves. Resist the temptation to tell your
19 spouse, significant other, or friend, guess what? I got
20 picked on this jury and the case is about this or that.
21 Please, you can let them know that out of respect for the
22 judicial process, including the prosecutors and the defense, I
23 can't discuss the case with you at this time, but I promise as
24 soon as the case is over, I'll brief you in every way
25 possible.

1 Ms. Herndon is going to be your shepherd. She is one of
2 our outstanding courtroom deputies. She is going to be getting
3 various contact information from you and you will have hers. I
4 doubt it's going to happen looking at the weather forecast
5 this week, but in the event that we ever had inclement weather
6 or there was some other traffic challenges that you ended up
7 having getting to the courthouse on time, she would be the
8 person that you would end up contacting and reaching out to.

9 She is also going to be the person to pass any notes to
10 in the event that something occurs when you are not seated
11 here in the actual courtroom.

12 As I indicated to you earlier, please don't discuss this
13 case amongst yourselves, allow anyone to discuss this case
14 with you. Don't do any independent research on this case.
15 Don't go on Facebook, My Life, My Space, you know, TikTok,
16 whatever it is to investigate this case on your own because
17 ultimately you're going to have to make the decision related
18 to this case exclusively on the evidence that you hear at
19 trial.

20 I'm going to give you this admonishment or some sort of
21 form of this admonishment or instruction each and every time
22 you exit this courtroom for the purposes of a break or even
23 for the day because that is how important that job is and your
24 responsibilities are.

25 So we are going to adjourn for today. You're going to

1 leave your notebooks on your chairs. They will be collected by
2 Ms. Herndon after you leave. You're going to arrive at no
3 later than 9:15 on Monday -- I'm sorry, on Wednesday.
4 Wednesday. You can feel free to arrive earlier. The court will
5 be open, but probably the earliest we'll be prepared to take
6 you will be at 9:15. Because there may be some preliminary
7 matters that I need to discuss with the lawyers outside of
8 your presence.

9 One final note and I found this to be the case. I've
10 been doing this for a while. But when you arrive in the
11 morning and there might be two other, three other jurors,
12 resist the temptation to discuss the case or during a break
13 say, you know, make any comment about the case whatsoever.
14 Sometimes it's hard to resist, but I'm going to ask that you
15 do that. Because you will get this case soon enough with
16 regard to deliberations after my instructions on the law.

17 So Counsel, is there anything else we can productively
18 handle with this jury before we conclude for today, Mr.
19 Romano?

20 **MR. ROMANO:** No, Your Honor. There's matters that
21 we need to take up with the Court, but not with the jury.

22 **THE COURT:** Of course. Ms. Flynn?

23 **MS. FLYNN:** No, Your Honor.

24 **THE COURT:** Mr. Mann?

25 **MR. MANN:** We're good, Judge.

1 **THE COURT:** Ladies and gentlemen, I'm going to
2 adjourn you for the day. Leave your pads there. Go back to the
3 same entranceway there. Ms. Herndon will be back with you
4 giving you some final instructions before you leave. Have a
5 nice evening and see you Wednesday at 9:15.

6 **(Jury is excused at 2:57 p.m.)**

7 **THE COURT:** All right, everyone could be seated. Mr.
8 Romano, there's some things that you need to take up outside
9 of the presence of the jury?

10 **MR. ROMANO:** Yes, Your Honor, thank you. Your Honor,
11 last week I submitted to the Court a motion and what was
12 styled as a protective order ex parte consent and I attached
13 to that an Exhibit 1. On Friday I received from your chambers
14 a signed copy of the motion to seal, the order sealing it, but
15 not the ex parte order which both defense counsel and as I
16 represented in my response, agreed to be bound by that ex
17 parte order. So we need to have a copy of that order signed or
18 if the Court wants to just do it verbally so that I can
19 provide that Exhibit 1 to both --

20 **THE COURT:** I'm going to order it verbally and then
21 upon going back in chambers I will sign off on it as soon as
22 -- I believe it's on my desk, so I will sign off on it as soon
23 as I walk back in chambers, but you have got oral approval and
24 I've issued an order to that effect.

25 **MR. ROMANO:** Thank you, Your Honor. And with that I

1 will provide to both Ms. Flynn and Mr. Mann a copy of that
2 Exhibit 1. Then depending upon further consultation with them,
3 we may need to have a discussion about whether or not they
4 believe that that is something that's appropriate to be
5 presented in terms of cross-examination of a witness.

6 **THE COURT:** It may be that that would be best taken
7 up in the morning of whenever the witness is expected to end
8 up testifying. Because I put in a window of between 15 minutes
9 and a half-hour. If everyone arrives at 9, I can issue a
10 ruling on the scope of any potential cross-examination, at
11 least a preliminary order or conditional order if certain
12 circumstances are met right there before we start trial. And
13 then if things happen to change, maybe we can address it at
14 either the mid-morning break or the mid-afternoon break or
15 arguably an extensive sidebar in which I would just excuse the
16 jury early for one of the breaks.

17 **MR. ROMANO:** Thank you, Your Honor. So just to be
18 clear, I will send to both defense counsel this afternoon that
19 Exhibit 1. Hopefully they can review it between now when they
20 get it and Wednesday morning. And then we can inquire about
21 whether we need to have an additional matter with the Court or
22 not.

23 **THE COURT:** Or it might be resolved. Also, I'm
24 wondering if -- I don't know, I haven't read it -- well, I
25 reviewed a portion of it, but I'm wondering whether or not

1 it's something that -- I don't need something in writing, per
2 se. I think that we can handle it orally through an oral
3 argument.

4 **MR. ROMANO:** I believe that's fair.

5 **THE COURT:** Okay.

6 **MR. ROMANO:** Your Honor, the only other thing and
7 I'll just say for the record and I advised counsel of this, we
8 will make every effort to tell Counsel who the witnesses are
9 that we intend to call each day. It's our best guesstimate.
10 So for example, on Wednesday which is March 2nd, we anticipate
11 the witnesses to be Corporal Tyler -- I guess he's been
12 promoted, Sergeant Tyler Vass, Detective Aaron Sandruck,
13 Detective Wyzga and then Postal Inspector Michael Pecukaitis.

14 **THE COURT:** That one got me too.

15 **MR. ROMANO:** Yeah. And so that's one, two, three,
16 four. And we may get to Detective Battee who is the case
17 agent. And if we do, that's in connection with the wiretap
18 calls which leads me to another question. And I don't mean to
19 belabor this, but Your Honor, we have had -- and I know
20 they've now come up with this new system where everything is
21 electronic, well most everything is electronic. That Minecraft
22 doll is not on -- it's a thumb drive or the kilos -- but my
23 point here is we have an exhibit which is labeled 3D, actually
24 it's subparts 3-D1 through 5. And these are copies of
25 transcripts and texts messages. Now they can be electronic,

1 but again, you've got two jurors trying to read a transcript
2 or a text message and we've prepared books, not just for Your
3 Honor, but for defense counsel and all of the jurors which I
4 think would be easier for the jurors, for example, to read a
5 transcript, to have that transcript book in front of them as
6 opposed to try to huddle up on a screen being shared by
7 jurors.

8 **THE COURT:** I agree. So if you prepare the
9 notebooks, if you prepare the binders for the jury to use and
10 they're being marked for Identification only, correct?
11 They're not going to go back into the jury room? In other
12 words, it's like a transcript of what someone else believes
13 the conversation was.

14 **MR. ROMANO:** That is correct, with regard to the
15 phone calls. For the text messages, that's substantive,
16 there's no interpret -- well, there's no well, this is what we
17 heard or this is what we didn't hear. So the transcripts which
18 are actually back in this starting at 3-D4 and 5.

19 **THE COURT:** Transcripts of the text messages or
20 transcripts of the phone calls?

21 **MR. ROMANO:** The transcripts of the phone calls are
22 3-D1 through 3 and then the text messages are physically the
23 actual text message.

24 **THE COURT:** Now the text messages are going to go
25 back.

1 **MR. ROMANO:** We'll rip the others out.

2 **THE COURT:** That's what I was going to say. You'll
3 take out the transcripts of the phone calls because they're
4 just marked for Identification.

5 **MR. ROMANO:** Yes, sir.

6 **THE COURT:** Okay.

7 **MR. ROMANO:** Thank you.

8 **THE COURT:** That makes sense.

9 **MR. ROMANO:** And we'll have a copy of this for each
10 of defense counsel. We have one for Your Honor. And I
11 believe, Mr. Gasque, we have 15 for the jurors, right? Okay,
12 so we'll have those for the Court. We also have an exhibit
13 binder for the Court which I can actually give to the Court
14 now if the Court wishes.

15 **THE COURT:** No, I'll just have it when I come back
16 on Wednesday.

17 **MR. ROMANO:** Counsel has already been given through
18 the Cloud and other --

19 **THE COURT:** Also what will be helpful and I don't
20 want -- the defense is under no obligation to do this and I
21 understand it, but from a scheduling standpoint, to the extent
22 that when you get Mr. Romano's witness list, if you believe
23 that there's going to be a fairly light cross-examination of
24 any of the individual witnesses whereby it may be best before
25 the conclusion of the trial day Mr. Romano can squeeze in

1 another witness, that would be great. Because then I can tell
2 the jury we're running ahead of schedule, instead of running
3 behind schedule. So, I mean, to the extent that you guys can
4 work together and say well, I don't anticipate much from
5 so-and-so and then that knocks out a half-hour
6 cross-examination to basically zero which would afford you,
7 Mr. Romano, if that happens for a couple witnesses, to be able
8 to put on an additional 30-minute witness or something along
9 those lines that might be cross-examined.

10 **MR. ROMANO:** Just one final thing. For the record,
11 I don't know whether the defense has any witnesses that they
12 intend to call or any exhibits, but we have not received any
13 exhibits from either defense counsel.

14 **THE COURT:** Yeah, well at this point -- they're
15 under no obligation to do anything at this point. Well, I
16 understand that there's discovery, but right now there are no
17 witnesses.

18 **MR. ROMANO:** I understand. The witnesses may be
19 within the list that we have. There weren't any that were
20 added. That's one part. But if they have exhibits, just as we
21 are required to share them --

22 **THE COURT:** Oh, right. Of course.

23 **MR. ROMANO:** So I don't know whether they have any
24 exhibits. But if they do, we haven't seen any.

25 **THE COURT:** Right, okay.

1 **MS. FLYNN:** And Your Honor, if I am going to be
2 using any exhibits it would have been something provided by
3 the Government.

4 **MR. ROMANO:** Thank you, Your Honor.

5 **MS. FLYNN:** I don't have anything separate and
6 apart.

7 **THE COURT:** That's what you're talking about.

8 **MR. ROMANO:** That's correct, Your Honor. Only if
9 they had any additional exhibits that aren't contained within
10 the exhibits --

11 **MS. FLYNN:** No.

12 **THE COURT:** Mr. Mann?

13 **MR. MANN:** I do not have anything that's separate
14 from what has already been provided. Judge, I will -- if I may
15 ask, if we can get that transcript book -- I'm not sure if you
16 plan on giving it to us today, but I would like to get that
17 transcript book today so that I can spend some time tomorrow
18 kind of verifying it. I get very worried about having
19 unverified -- you know, you listen to these calls, it's not --
20 nothing is crystal clear. It's lot of garble, a lot of side
21 talk. And so I worry about what the Government thinks is
22 actually being said and putting it down on paper like it's --

23 **THE COURT:** Right. And when the jury is presented
24 with a transcript of a conversation, I will always admonish
25 them that this is just simply one person's version of what is

1 being said in the conversation. And that ultimately, that
2 transcript is not evidence, but what is on the disk and what
3 you actually hear is the evidence. The transcript is one
4 person's interpretation of what that is.

5 **MR. MANN:** Right. But it is powerful to have that
6 in front of you. And I have run into situations where just a
7 little bit of a word sort of transposed incorrectly can really
8 change the context of a conversation. So if they have it, I
9 would like to have it today.

10 **MR. ROMANO:** Your Honor, Mr. Gasque, our paralegal
11 extraordinaire has indicated to me that those transcripts were
12 uploaded to USAFX, so you should have those, Counsel.

13 **MR. MANN:** They were?

14 **MR. ROMANO:** Yes.

15 **MR. MANN:** Okay, because those were not part of the
16 upload on the Government's list.

17 **THE COURT:** I don't know what that is. I tell you
18 what --

19 **MR. MANN:** We'll figure it out.

20 **THE COURT:** The Government says that you've got
21 access to it. I have no doubt that Mr. Gasque has attempted
22 to or has made access to it. It's just a question of finding
23 exactly where it is.

24 **MS. FLYNN:** No problem. We'll figure it out.

25 **THE COURT:** Okay, very good. Anything else?

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MR. ROMANO: No, Your Honor. Thank you.

THE COURT: Okay, thank you. See you on Wednesday.

(Proceeding concluded at 3:09 p.m.)

1 CERTIFICATE OF OFFICIAL REPORTER

2
3
4
5 I, Nadine M. Bachmann, Certified Realtime Reporter
6 and Registered Merit Reporter, in and for the United States
7 District Court for the District of Maryland, do hereby
8 certify, pursuant to 28 U.S.C. § 753, that the foregoing is a
9 true and correct transcript of the stenographically-reported
10 proceedings held in the above-entitled matter and that the
11 transcript page format is in conformance with the regulations
12 of the Judicial Conference of the United States.

13
14 Dated this 17th day of January, 2022.

15
16 -S-

17
18 _____
19 NADINE M. BACHMANN, CRR, RMR
20 FEDERAL OFFICIAL COURT REPORTER
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